





SPEECH

OF

HON. LAZARUS W. POWELL,

OF KENTUCKY,

ON THE

STATE OF THE UNION:

DELIVERED

IN THE SENATE OF THE UNITED STATES, JANUARY 22, 1861.

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# MR. CRITTENDEN'S JOINT RESOLUTIONS

Proposing certain amendments to the Constitution of the United States.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following articles be, and are hereby, proposed and submitted as amendments to the Constitution of the United States, which shall be valid to all intents and purposes as part of said Constitution, when ratified by conventions of three fourths of the several States.*

ARTICLE 1. In all the territory of the United States now held, or hereafter acquired, situate north of latitude  $36^{\circ} 30'$ , slavery or involuntary servitude, except as a punishment for crime, is prohibited while such territory shall remain under territorial government. In all the territory now held, or hereafter acquired, south of said line of latitude, slavery of the African race is hereby recognized as existing, and shall not be interfered with by Congress, but shall be protected as property by all the departments of the territorial government during its continuance; and when any Territory, north or south of said line, within such boundaries as Congress may prescribe, shall contain the population requisite for a member of Congress, according to the then Federal ratio of representation of the people of the United States, it shall, if its form of government be republican, be admitted into the Union on an equal footing with the original States, with or without slavery, as the constitution of such new State may provide.

ART. 2. Congress shall have no power to abolish slavery in places under its exclusive jurisdiction, and situate within the limits of States that permit the holding of slaves.

ART. 3. Congress shall have no power to abolish slavery within the District of Columbia, so long as it exists in the adjoining States of Virginia and Maryland, or either, nor without the consent of the inhabitants, nor without just compensation first made to such owners of slaves as do not consent to such abolishment. Nor shall Congress at any time prohibit officers of the Federal Government or members of Congress, whose duties require them to be in said District, from bringing with them their slaves and holding them as such during the time their duties may require them to remain there, and afterwards taking them from the District.

ART. 4. Congress shall have no power to pro-

hibit or hinder the transportation of slaves from one State to another, or to a Territory in which slaves are by law permitted to be held, whether that transportation be by land, navigable rivers, or by the sea.

ART. 5. That, in addition to the provisions of the third paragraph of the second section of the fourth article of the Constitution of the United States, Congress shall have power to provide by law, and it shall be its duty so to provide, that the United States shall pay to the owner who shall apply for it, the full value of his fugitive slave, in all cases, when the marshal, or other officer, whose duty it was to arrest said fugitive, was prevented from so doing by violence or intimidation, or when, after arrest, said fugitive was rescued by force, and the owner thereby prevented and obstructed in the pursuit of his remedy for the recovery of his fugitive slave, under the said clause of the Constitution and the laws made in pursuance thereof. And in all such cases, when the United States shall pay for such fugitive, they shall have the power to reimburse themselves by imposing and collecting a tax on the county or city in which said violence, intimidation, or rescue was committed, equal in amount to the sum paid by them, with the addition of interest and the costs of collection; and the said county or city, after it has paid said amount to the United States, may, for its indemnity, sue and recover from the wrong-doers, or rescuers, by whom the owner was prevented from the recovery of his fugitive slave, in like manner as the owner himself might have sued and recovered.

ART. 6. No future amendment of the Constitution shall affect the five preceding articles, nor the third paragraph of the second section of the first article of the Constitution, nor the third paragraph of the second section of the fourth article of said Constitution; and no amendment shall be made to the Constitution which will authorize or give to Congress any power to abolish or interfere with slavery in any of the States by whose laws it is or may be allowed or permitted.

ART. 7. SEC. 1. The elective franchise and the right to hold office, whether Federal, State, territorial, or municipal, shall not be exercised by persons who are, in whole or in part, of the African race.

## AMENDMENTS

Intended to be proposed by Mr. POWELL to the joint resolution of Mr. CRITTENDEN, "proposing certain amendments to the Constitution of the United States," viz:

At the end of article four, insert the following:

But the African slave trade shall be forever suppressed, and it shall be the duty of Congress to make such laws as shall be necessary and effectual to prevent the migration or importation of slaves, or persons owing service or labor, into the United States from any foreign country, place, or jurisdiction whatever.

Insert the following as additional sections to article four, page 4:

SEC. 2. That persons committing crimes against the rights of those who hold persons to service or labor in one State, and fleeing to another, shall be delivered up in the

same manner as persons committing other crimes; and that the laws of the State from which such persons flee shall be the test of criminality.

SEC. 3. Congress shall pass efficient laws for the punishment of all persons in any of the States who shall in any manner aid and abet invasion or insurrection in any other State, or commit any other act tending to disturb the tranquillity of its people or government of any other State.

NOTE.—On motion of Mr. POWELL, (with the consent of Mr. CRITTENDEN,) the first article was amended by the Senate so as to make it apply to territory hereafter acquired south of parallel of latitude  $35^{\circ} 30'$ .

## SPEECH.

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The Senate, as in Committee of the Whole, having resumed the consideration of the joint resolution proposing certain amendments to the Constitution of the United States—

Mr. POWELL said:

Mr. PRESIDENT: From the commencement of this session, I have steadily advocated every measure that has been proposed which, in my judgment, was calculated to restore peace to this distracted country. I heartily desire the preservation of this system of Government, and that the constitutional Union of our fathers may be transmitted to those who are to come after us. It has been well said, by more Senators than one, that the Union could not be saved by eulogies. In that, I most heartily concur. I shall indulge in no special eulogy on the Union. The rapid growth of our country, the prosperity, contentment, and happiness of our people; our rapid advancement in agriculture, manufactures, commerce, art, science, in all its industrial pursuits, and in all the arts of peace, must be eulogy sufficient. I do not conceive, sir, that the difficulties by which we are now surrounded arise so much from a defect in our system of Government, as from a wild, fanatical spirit that seems for a time to have overthrown the reasons of men, and perverted that system. The Constitution, as interpreted by the Republican party, instead of being a shield for our defense, is used as an instrument for the destruction of our rights of property in the common territory of the Union. For the first forty years of our Government, the rights of our people were everywhere maintained under the Constitution. Indeed, in those earlier and better days of the Republic, so light were the exactions the Govern-

ment made on the people, and so ample the protection it afforded to persons and property everywhere, that we scarcely knew we had a Government, save from the benefits we enjoyed. And such now, sir, would be the happy condition of the country if all political parties would in good faith execute the Constitution as it has been expounded by the Supreme Court of the United States.

My distinguished and learned friend from Texas [Mr. WIGFALL] the other day twitted me with being a Union-saver. I will say to that distinguished Senator that if I could be in the slightest degree instrumental in arresting the dangers by which we are surrounded, in restoring peace, harmony, and unity to this distracted people, and in transmitting to those who are to come after us the constitutional Union of our fathers, I would be most happy. I would desire no honor more permanent or lasting. I would covet no brighter or more enduring fame.

I announced to the Senate at the commencement of the session that, in my opinion, unequivocal constitutional guarantees were the only remedies that would save this Union from speedy dissolution. Events that have transpired since that time have confirmed me in that belief. I then declared that delay in a crisis like this was equivalent to destruction. It now looks to me more like criminality. In the presence of the momentous events by which we are surrounded, we should act promptly on the various propositions for adjustment before the Senate. If we are unable to agree upon a plan of adjustment, let the country know it. I confess that the action of Senators on the committee of thirteen, and the dec-



larations of Senators on this floor, have caused me to have but little hope that Congress will do anything that will restore harmony to our distracted country.

Without further preface, Mr. President, I will proceed at once to the consideration of the amendments proposed to the Constitution by my distinguished colleague. I shall endeavor briefly to meet the objections made to them, and to state to the Senate the reasons why I think they should be adopted by gentlemen on both sides of this Chamber. If adopted, I believe they would restore peace to this country. The first article is the one that I apprehend will be most difficult of solution. It is the one touching the Territories of the United States, and African slavery in those Territories. This article proposes that—

In all territory of the United States, now held or hereafter acquired, situate north of latitude  $36^{\circ} 30'$ , slavery or involuntary servitude, except as a punishment for crime, is prohibited while such territory shall remain under territorial government. In all the territory, now held or hereafter to be acquired, south of said line of latitude, slavery of the African race is hereby recognized as existing, and shall not be interfered with by Congress; but shall be protected as property by all the departments of the territorial government during its continuance; and when any territory, north or south of said line, within such boundaries as Congress may prescribe, shall contain the population requisite for a member of Congress, according to the then Federal ratio of representation of the people of the United States, it shall, if its form of government be republican, be admitted into the Union on an equal footing with the original States, with or without slavery, as the constitution of such new State may provide.

In proceeding to the discussion of this proposition, I would ask if the disposition it proposes to make of the territories of the Union is not just and equitable to the free States? It is admitted by all that the territories of the Union are the common property of the people of all the States. If acquired by purchase, they were bought out of the common fund of all the people. If acquired by conquest, every part of the country contributed its share of the men and treasure that carried on the war. So far as a very large portion of these territories is concerned—that which was acquired from Mexico—the gallant State that I have the honor in part to represent contributed three times more men than all New England. I suppose that arose from the fact that it was nearer the seat of war.

On the subject of the division of the territories, I will state a few historical facts, which will show how the territories have been divided between the

free and the slave States of this Union. When the peace of 1783 was made, the States north of Mason and Dixon's line had an area of one hundred and sixty-four thousand square miles. The States south of that line had an area of six hundred thousand square miles. In 1787, Virginia ceded the vast territory northwest of the Ohio to the United States, and slavery or involuntary servitude was prohibited therein. That being taken from the territory then belonging to the slave States, gave the ascendancy to the free States. By the acquisition of Louisiana, of Florida, and of Texas, the area of the slave States was greatly increased. The area of the free and slave States, as at present organized, is about the same, each containing about eight hundred and sixty thousand square miles. What is the extent of the territory about which we are now contending? I have an accurate tabular statement furnished me by the Commissioner of the General Land Office, showing the area in square miles of the part north and the part south of the parallel of  $36^{\circ} 30'$  north latitude:

*Statement of the surface of each Territory in the United States, showing the part north and the part south of the parallel of  $36^{\circ} 30'$  north latitude.*

Territory.	Whole surface.	North of parallel $36^{\circ} 30'$ .	South of parallel $36^{\circ} 30'$ .
	<i>Sq. miles.</i>	<i>Sq. miles.</i>	<i>Sq. miles.</i>
Kansas.....	136,283	126,283	-
Nebraska.....	342,438	342,438	-
Minnesota.....	81,960	81,960	-
Washington.....	193,071	193,071	-
New Mexico.....	256,309	40,629	215,680
Utah.....	220,196	220,196	-
Indian.....	67,020	16,730	50,290
	1,287,277	1,021,307	265,970

We have now in the territories of the United States one million two hundred and eighty-seven thousand two hundred and seventy-seven square miles. North of the line proposed to be established by this amendment, there are one million twenty-one thousand three hundred and seven square miles; south of that line there are only two hundred and sixty-five thousand nine hundred and seventy square miles. Thus you see, that under and by virtue of this article, should it be adopted, the North will get nearly four times as much territory as the South; and while they get nearly four times in quantity, they will get more than ten times in value; for it is well-known that all the rich territory of Kansas, of Nebraska, and all the land embraced in the territories that

are watered by the Mississippi and Missouri rivers and their tributaries, and the land in Washington Territory, bounded by the Pacific, goes to the North, while there is given to the South the arid, barren Territory of New Mexico, containing very little fertile land and utterly destitute of navigable rivers.

By reference to the tabular statement just read, I find that forty thousand six hundred and twenty-nine square miles of the Territory of New Mexico lies north of latitude  $36^{\circ} 30'$ . So far, then, from increasing the area of slave territory, it is diminished forty thousand six hundred and twenty-nine square miles. The North gains that much by the adoption of this article, for it is well known that slavery exists and is recognized and protected by law in New Mexico. Then, by the adoption of this article, we do not alter the *status* of slavery upon a foot of the territory of the United States south of the parallel  $36^{\circ} 30'$ ; but we absolutely surrender forty thousand six hundred and twenty-nine square miles of slave territory—an area almost as great as the empire State of New York—to the North.

It will be seen, by reference to the tabular statement heretofore read, that fifty thousand two hundred and ninety square miles of the Territory estimated as lying south of the parallel  $36^{\circ} 30'$  is embraced in the Indian territory. This territory has been set apart to the Indians who are becoming civilized. The United States have agreed, by treaty stipulations, that the land in the Indian territory shall in no future time, without the consent of the Indians, “be included within the territorial limits or jurisdiction of any State or Territory.” Slavery, however, exists in the Indian territory, and is recognized and protected by law. When you deduct the fifty thousand two hundred and ninety square miles embraced in the Indian territory, we have only two hundred and fifteen thousand six hundred and eighty square miles south of the parallel of  $36^{\circ} 30'$  which would be subject to occupancy by the South with their property, if this amendment to the Constitution were adopted.

This article has been objected to because it applies to after-acquired territory. I think it is eminently proper that it should apply to after-acquired territory. Senators, if we settle this matter at all, let us do it in such a manner as will quiet it forever. Let us put this vexed territorial and negro question, so far as the Territories of the Confederacy are concerned, forever without these

Halls. Any other adjustment would be idle, futile, and unwise. For forty years, this question has agitated and harassed the people of this country. In 1820, in the difficulties that grew out of the admission of Missouri, it deeply agitated the public mind and threatened the disruption of the Government. Again, in 1850, we were as deeply agitated from the same cause. And why? Because the compromises of that day did not go to the root of the evil. If constitutional amendments, instead of statutes, had been resorted to in 1820, or in 1850, we would not now be surrounded by difficulties that threaten to disrupt and forever destroy the Government and engulf us all in a common ruin.

It has been stated that the application of this article to after-acquired territory would create a desire on the part of the southern people to fill-buster south, and to absorb Mexico, seize the Island of Cuba, and other regions south, and bring them ultimately into the Union as slave States. Senators, allow me, with great deference, to say that that position is not well taken. How do you acquire territory? You can only do it under our system of Government in two modes—by the admission of new States by Congress, or by treaty. I ask you if the South has the power to admit new States into this Union without the concurrence and the consent of the Representatives of the North? You now have, in this Chamber, six majority from the free States. Ere long, perhaps in less than three days, you will have eight, by the admission of Kansas; and soon after, Nebraska, Washington, and other Territories, will be admitted as free States, which will increase your majority. There is no Territory south out of which we could possibly form more than one or two slave States. While you have a majority here that would prevent the admission of a new State without your assent, you have, in the other branch of Congress, a majority now of over fifty from the free States; and when the apportionment shall come to be made under the census of 1860, your majority in that branch will be greatly increased. Could we acquire territory by treaty without your consent? Why, sir, you know that every treaty must be confirmed by two thirds of the Senate. You have a majority now of six; and is there any danger that we shall acquire future territory by a vote of two thirds of this Senate, unless it meet the approbation of our brethren of the North? Certainly not. That objection, then, as I before said, I hold to be badly taken. It is really worth-

less. When properly considered, it amounts to nothing.

It is objected to because it recognizes slavery. I conceive that that objection is equally untenable; for I hold that the present Constitution recognizes that institution. It is a fact that is indisputable, that under the law of nations, at the time of the formation of this Government, slaves were recognized as property throughout Christendom. All the great Powers held slave colonies, to wit: France, Spain, and England. Upon that subject I have a decision of the High Court of Admiralty, pronounced by Sir William Scott, that I think is conclusive. I will ask my friend from Missouri to read it.

Mr. SUMNER. What is the name of the case?

Mr. POWELL. It is the case of *Le Louis*, 2 Dodson. The court, speaking of slavery and the slave trade, said.

Mr. GREEN read, as follows:

"[It the court] must look to the legal standard of morality; and upon a question of this nature, that standard must be found in the law of nations, as fixed and evidenced by general and ancient and admitted practice, by treaties, and by the general tenor of the laws and ordinances, and the formal transactions of civilized States; and looking to those authorities, I find a difficulty in maintaining that the traffic is legally criminal.

"Let me not be misunderstood, or misrepresented, as a professed apologist for this practice, when I state facts which no man can deny; that personal slavery arising out of forcible captivity is coeval with the earliest periods of the history of mankind; that it is found existing—and, as far as appears, without animadversion—in the earliest and most authentic records of the human race; that it is recognized by the codes of the most polished nations of antiquity; that, under the light of Christianity itself, the possession of persons so acquired has been in every civilized country invested with the character of property, and secured as such by all the protections of law; that solemn treaties have been framed and national monopolies eagerly sought, to facilitate and extend the commerce in this asserted property; and all this, with all the sanctions of law, public and municipal, and without any opposition, except the protests of a few private moralists, little heard and less attended to, in every country, till within these very few years, in this particular country. If the matter rested here, I fear it would have been deemed a most extravagant assumption in any court of the law of nations to pronounce that this practice, the tolerated, the approved, the encouraged object of law, ever since man became subject to law, was prohibited by that law, and was legally criminal. But the matter does not rest here. Within these few years a considerable change of opinion has taken place, particularly in this country. Formal declarations have been made, and laws enacted in reprobation of this practice; and pains, ably and zealously conducted, have been taken to induce other countries to follow the example, but at present with insufficient effect; for there are nations which adhere to the practice under all the encouragement which their own

laws can give it. What is the doctrine of our courts, of the law of nations, relative to them? Why, that their practice is to be respected; that their slaves, if taken, are to be restored to them; and if not taken under innocent mistake, are to be restored with costs and damages. All this, surely, upon the ground that such conduct on the part of any State is no departure from the law of nations; because if it were, no such respect could be allowed to it upon an exemption of its own making, for no nation can privilege itself to commit a crime against the law of nations by a mere municipal regulation of its own. And if our understanding and administration of the law of nations be, that every nation, independently of treaties, retains a legal right to carry on this traffic, and that the trade carried on under that authority is to be respected by all tribunals, foreign as well as domestic, it is not easy to find any consistent grounds on which to maintain that the traffic, according to our views of that law, is criminal."—*English Admiralty Reports*, vol. 2. pp. 250, 251.

Mr. POWELL. Upon the proposition stated, that authority is too clear and explicit to need comment. I have another case in the King's Bench, decided in 1820, and reported in the third volume of *Barnwell and Alderson's Reports*—the case of *Madrazo vs. Willes*. In that case, Mr. Justice Best said:

"It is clear from these authorities that the slave trade was not condemned by the law of nations."—3 *Barnwell and Alderson*, p. 359.

It is clear, then, Senators, upon the authorities I have adduced—and I could have had abundant authority from the elementary books, if I had chosen to refer to them, but I preferred to present the adjudications of the law of nations from the courts of Great Britain, one opinion delivered in 1817, and the other in 1820—that the condition or slavery was recognized by English courts.

At the time of the formation of this Government, all the colonies recognized property in slaves, and treated them as articles of commerce and merchandise. In the debate in the convention which formed the Articles of Confederation, you will find that property in slaves was clearly and explicitly recognized. In the debates in the convention that formed the present Constitution, Mr. Elbridge Gerry, a delegate from Massachusetts, and others, clearly and distinctly stated that slaves were property. In the Constitution itself, property in slaves is most clearly recognized, not only in that clause which declares that "no person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due," but in that other clause of the Constitution which declared



that the slave trade should not be prohibited by Congress for twenty years, clearly treating slaves as property, as articles of commerce and traffic; and allow me to say that that clause was put in the Constitution by the vote of Massachusetts, with Carolina and Georgia, and against the earnest protest of Virginia. At that time our Massachusetts friends did not think there was no property in slaves. When it comported with their interest, they strenuously contended that the right to traffic in them should be allowed for twenty years, and that Congress should not prohibit it. The Constitution, in my judgment, is clear and explicit upon that point; and the view I take of it has certainly been held by the Supreme Court of the United States, and by the highest judicial tribunals of many of the States of this Union. In the celebrated Dred Scott decision, Judge Taney says:

"Now, as we have already said in an earlier part of this opinion, upon a different point, the right of property in a slave is distinctly and expressly affirmed in the Constitution. The right to traffic in it, like an ordinary article of merchandise and property, was guaranteed to the citizens of the United States, in every State that might desire it, for twenty years. And the Government, in express terms, is pledged to protect it in all future time, if the slave escapes from his owner. This is done in plain words—too plain to be misunderstood. And no word can be found in the Constitution which gives Congress a greater power over slave property, or which entitles property of that kind to less protection, than property of any other description. The only power conferred is the power coupled with the duty of guarding and protecting the owner in his rights."

Could language be more explicit? If the Constitution is as it has been expounded by the most august judicial tribunal in the land, then the article which is now under consideration does not change the present Constitution so far as it relates to the recognition of property in slaves. I have a further authority on the subject. In the second volume of Pickering's Massachusetts Reports, in the case of the Commonwealth vs. Griffith, Chief Justice Parker says, speaking of the Constitution of the United States:

"That instrument was a compromise. It was a compact by which all are bound. We are to consider, then, what was the intention of the Constitution. The words of it were used out of delicacy, so as not to offend some in the convention whose feelings were abhorrent to slavery; but we there entered into an agreement that slaves should be considered as property. Slavery would still have continued if no Constitution had been made."—*Pickering's Reports*, vol. 2, p. 19.

Chief Justice Parker declares, as explicitly as it is possible for him to do, that slaves, under the Constitution of the United States, were considered as property. The Federalist, I believe, has been held, by all men of all parties, to be a most faithful exposition of the Constitution by those who formed it. In No. 54 of the Federalist, writ-

ten by Mr. Madison, whose authority is often quoted to prove that the Constitution does not recognize slavery, I find this:

"The Federal Constitution, therefore, decides with great propriety on the case of our slaves, when it views them in the mixed character of persons and of property."

The authorities I have adduced, when taken in connection with the plain and explicit declarations of the Constitution, can leave no doubt that slaves are recognized as property in the Constitution. Congress has, on more occasions than one, recognized property in slaves. By a law of the United States, approved 2d March, 1807, slaves are recognized as property; and the transportation of such property, in vessels of the United States sailing coastwise, is regulated, and the protection of our flag given to it; and there are millions of slave property now held by the people in the southern States, acquired through the United States, having been sold under the Federal laws, for debts due the United States. In the treaty of peace, signed at Paris in 1782, property in slaves was distinctly recognized, and that treaty was signed by John Adams, Benjamin Franklin, and John Jay, and other distinguished men. The seventh article of the treaty is as follows:

*Provisional Articles between the United States of America and his Britannic Majesty.*

Agreed upon by and between Richard Oswald, esquire, the commissioner of his Britannic Majesty, for treating of peace with the commissioners of the United States of America, in behalf of his said Majesty, on one part, and John Adams, Benjamin Franklin, John Jay, and Henry Laurens, four of the commissioners of the said States, &c.

ART. VII. \* \* \* \* \* All prisoners on both sides shall be set at liberty, and his Britannic Majesty, with all convenient speed, and without causing any destruction, or carrying away any negroes or other property of the American inhabitants, withdraw all his armies, garrisons, and fleets from the said United States, and from every fort, place, and harbor within the same.

Done at Paris, November 30, 1782.

RICHARD OSWALD,	[L. S.]
JOHN ADAMS,	[L. S.]
B. FRANKLIN,	[L. S.]
JOHN JAY,	[L. S.]
HENRY LAURENS.	[L. S.]

*Definitive Treaty of Peace, between the United States of America and his Britannic Majesty.*

ART. VII. \* \* \* \* \* And his Britannic Majesty shall, with all convenient speed, and without causing any destruction, or carrying away any negroes or other property of the American inhabitants, withdraw all his armies, &c.

Done at Paris, September 3, 1783.

D. HARTLEY,	[L. S.]
JOHN ADAMS,	[L. S.]
B. FRANKLIN,	[L. S.]
JOHN JAY.	[L. S.]

This article, clearly, plainly, and distinctly recognizes property in slaves; and the same recognition is in the treaty of Ghent, signed by John Quincy Adams, Gallatin, Russell, Clay, and other

distinguished men. I will read the first article of the treaty:

*Treaty of Peace and Amity between his Britannic Majesty and the United States of America.*

(Ratified and confirmed by and with the advice and consent of the Senate, February 11, 1815.)

ART. I. \* \* \* \* shall be restored without delay, and without causing any destruction, and without carrying away any of the artillery or other public property originally captured in the said forts or places, and which shall remain therein upon the exchange of the ratifications of this treaty, or any *slaves or other private property.*

Done, in triplicate, at Ghent, December 24, 1814.

GAMBRIE,	[L. S.]
HENRY COULBURN,	[L. S.]
WILLIAM ADAMS,	[L. S.]
JOHN Q. ADAMS,	[L. S.]
J. A. BAYARD,	[L. S.]
J. CLAY,	[L. S.]
JONA. RUSSELL,	[L. S.]
ALBERT GALLATIN,	[L. S.]

These treaties were signed by our wisest and most illustrious men, several of whom assisted in forming this Government, and were among the ablest expounders of the Constitution; they, I suppose, had as much knowledge of what constituted property as their descendants. The treaty of Paris was ratified by the Continental Congress; the treaty of Ghent by the Senate of the United States. There was not an objection in either body to the designation of slaves as property.

Another objection urged against this article is, that it declares that the Government shall give protection to slave property in the Territories. I scarcely know how to meet this objection. I had supposed that it was an axiomatic truth in governmental science, that all Governments were formed for the purpose of protecting the people governed, in their property and their persons; and that whenever a Government ceases to perform this high function, it is a failure. I did not expect to meet such an objection as this in the Senate. It is a case too plain for argument. Slaves are property, and are recognized as such by the Constitution, laws, and treaties of the United States, as I have clearly shown. Why should not the common Government give protection to this species of property? I have always supposed that protection is the price of allegiance. We ask nothing, Senators, touching this territory, that is not right. You all admit that it is common territory. We are willing to give you much the larger portion, nearly four times as much as we ask for ourselves; and yet it seems you are not satisfied. You admit that the territory is common property. Then, is it right, or just, or equitable, that you should take the whole, to the exclusion of your southern brethren? Certainly not. There is not a judicial tribunal on earth, if it were applied to

for a fair division, an honest partition of these Territories between the people of the North and the South, that would not give us twice as much as is conceded by this proposed amendment to the Constitution? I remember that, when the Missouri compromise line was repealed, the Republicans everywhere sang peans to it. If you were in earnest in desiring the existence and continuance of that line, we offer it to you now, not as a statute subject to repeal, but as an irrevocable amendment to the Constitution; and why not take it, if you were really in earnest when you protested so strongly against its repeal?

Senators, the adoption of this article as part of the Constitution will not plant slavery in any Territory of the Union, unless the people there want it, for it applies only to the Territories during the territorial condition; and when they have population sufficient to entitle them, under the then existing ratio, to a Representative in Congress, they will have a right to come in as a State, with or without slavery, as they please. Thus, you see, the laws of climate, of production, and of interest, will ultimately govern the question. Adopt this amendment, and this vexed and agitating question will be forever banished from these Halls, and the time of the people's Representatives will be devoted to other and more useful matters of legislation. My experience here has been a brief one. I have served in this body about eight months, and six months of that time have been devoted to the discussion of abstract theorems on this question of negro slavery as connected with the Territories of the United States. Is it not time that the subject should be banished from these Halls, and our attention given to more useful subjects of legislation? These discussions have gone on to an interminable length, to the neglect of every great interest of the country. Our financial, our commercial, our internal and external affairs, require and imperiously demand our time, but it is not given to these great interests of the people. If you adopt this amendment, the guns of demagogues, north and south, will be spiked, and they will have no longer an opportunity to create sectional strife, and get into power by pandering to the depraved appetites of their sectional followers.

I do not believe that a more just settlement could be made of the question than the one proposed by my colleague. If it be unjust to any, it is to the people of his own section; certainly not to the North. While you, Senators from the

North, speak very often of aggressions that are made on your section, in truth you are very apt to get the larger share, as you do in this case. You have got it already; you will have it under this proposition; but for the sake of peace, for the sake of harmony, for the sake of transmitting to generations yet to come the institutions of our fathers, and to save the Union of the States, we are willing to yield to you more than your due, more than is your right. We do it in the spirit of a peace offering upon the altar of our country. And yet it seems to be spurned. We do not ask as much by this article as we are entitled to under the Constitution as expounded by the Supreme Court; for the decision from which I read a moment ago declares that, under the Constitution of the United States, we have a right to go to all the Territories, and to carry with us our slave property, and to be protected in its enjoyment during the territorial existence; and that there is no power, either in the Congress of the nation, or in any other tribunal, to deprive us of that protection; and that the Government has the power under the Constitution, and it is its duty, to guard and to protect us in our right of property. By this amendment to the Constitution we yield our right to enter, with our slave property, all the Territory north of 36° 30', and we reserve to ourselves the right to occupy with our property the territory south of that parallel of latitude, which only secures to us the barren soil of New Mexico.

I will briefly notice the other proposed amendments to the Constitution. The second article declares that Congress shall have no power to abolish slavery in places under its exclusive jurisdiction and situate within the limits of States that permit the holding of slaves. I suppose, from the often-repeated declaration that I have heard from Senators on the other side of the Chamber, that they will not make serious objection to this; for they have frequently declared that they did not wish to interfere with slavery in the States where it exists. It is manifest that if they were to undertake, by an act of Congress, to abolish slavery in the forts, arsenals, and dock-yards of the United States within the slave States, it would be not only a serious detriment to our interests, but a violation of the Constitution. It is right, then, that this provision should go into the Constitution. Our people feel some alarm upon that subject. This amendment would allay excitement and quiet their fears.

The third proposed amendment is, that Congress shall not have power to abolish slavery in the District of Columbia so long as it exists in the States of Virginia and Maryland. This is a proposition that gentlemen on the other side of the Chamber certainly ought not seriously to object to; for the reasons I have assigned concerning the preceding article, and for the additional reason that the abolition of slavery in this District would be a matter of deep moment to the existence of this institution in the States of Maryland and Virginia. It would be virtually establishing a free State in their midst. It would be manifestly unjust to Virginia and Maryland that this District, which was ceded to the United States to be used as a capital for a common country, should be so controlled and governed as to endanger the domestic quiet and peace of those two States.

The fourth article provides that Congress shall have no power to prohibit or hinder the transportation of slaves from one State to another, or to a Territory in which slaves are, by law, permitted to be held, whether that transportation be by land, by navigable rivers, or by sea. If Senators are in earnest when they say it is not their purpose to interfere with slavery in the States where it exists, they certainly have no legitimate right to complain of this article. Our people have great uneasiness about these matters; and they desire that these guarantees should be put in the Constitution, and placed beyond the reach of majorities. We think our interests and our safety imperiously demand it.

To this article I have proposed three amendments which are before the Senate, and are acceptable to my colleague. I will consider them as part of the proposed plan of adjustment. The first is, that the African slave trade shall be forever suppressed; and it shall be the duty of Congress to make such laws as shall be necessary effectually to prevent the migration or importation of slaves, or persons owing service or labor, into the United States from any foreign country, place, or jurisdiction whatever. I know that there is much uneasiness, or pretended uneasiness, in the northern mind, that it is the desire of the southern people to reopen the African slave trade. I am confident that, without this provision, we could not do it, for the laws of the United States already declare it piracy, and you have a majority in both ends of this Capitol, and will forever have a majority, and that of itself will prevent any reopening in after time of the African slave trade; but



for fear the mind of the people may be changed on this subject, for fear the southern cotton and sugar planters may desire an importation of slaves from Africa, in order to enrich themselves by increasing their products, or that the cupidity of gentlemen of the North engaged in navigation may be excited, and lest they may wish again to enter into the slave trade, I desire to put this provision in the Constitution, which declares that the African slave trade shall be forever suppressed. That will forever quiet your apprehensions and uneasiness on this point. I do not believe that there is one man in ten thousand in the southern States who desires the reopening of the African slave trade. I have never heard a man in Kentucky declare in favor of it; and I think when you get further South, they are few, indeed, who do not desire to prevent that traffic forever.

The second amendment which I propose is, that persons committing crimes against the rights of those who hold persons to service or labor in any State, fleeing to another, shall be delivered up in the same manner as persons committing other crimes, and that the laws of the State from which such persons flee shall be the test of criminality. This amendment is intended to secure the arrest and delivery of persons who steal slave property and flee to another State. There is very great complaint against many of our sister States of the North, because of the non-fulfillment of this duty under the Constitution. We hold that, under the Constitution as it is, it is their duty to deliver up persons charged with the crime of slave-stealing who have fled to other States; but we know that the Governors of more than one of the free States have held differently. It has been so held, I think, in New York, and certainly in Ohio and other States. I know that this is a matter of very deep and just complaint on the part of the people of Kentucky against the State of Ohio; and I am sure that honorable gentlemen do not wish to keep thieves in their midst. Good faith and comity, as well as constitutional obligations, require that such persons should be surrendered. This amendment would make certain and plain a provision of the Constitution, which has been the subject of diverse construction. It relates to a subject of great and vital interest to the people of the South; and none, I suppose, would object to it except those who would sanction the robbery of southern men of their property. Republican Senators have often—I believe uniformly—expressed their condemnation of such infractions of our rights. Honorable

gentlemen certainly do not desire to obstruct the execution of the laws against the rights of property in any State in the Union, by refusing to provide a remedy to have delivered up the criminals, who have fled and taken refuge in their States, for trial and punishment. I therefore trust that this amendment, so obviously just and necessary for the protection of the South against robbery and theft, may be adopted.

The third amendment that I propose is, that Congress shall pass efficient laws for the punishment of all persons, in any of the States, who in any manner aid or abet invasion or insurrection in any other State, or do any other act tending to disturb the tranquillity of the people or Government of any other State. This provision seems to me to be eminently proper. It meets just such cases as the raid of John Brown into Virginia; and I believe that that raid of John Brown was censured very generally, I do not know but unanimously, by Senators on the other side of the Chamber. If they conceive it wrong—and I dare say they are in earnest when they say so—why not pass laws to punish such crimes, and why not put this provision in the Constitution, and make it the imperative duty of Congress to pass such laws? My distinguished friend from Virginia, [Mr. HUNTER,] who most eloquently and ably addressed the Senate a few days ago, declared that no State in the Union had passed laws to meet such a case. I find that the gallant State of New Jersey has passed a law which fully meets the case, and it affords me pleasure so to announce. By an act of the Legislature of that State, approved March 21, 1860, New Jersey declared:

*“1. Be it enacted by the Senate and General Assembly of the State of New Jersey, That if any person or persons shall, within this State, get up or enter into any combination, organization, or conspiracy, with the intent and purpose of making or attempting to make a hostile invasion of any other State or Territory of the United States, or shall engage in plotting or contriving any such invasion, or shall knowingly furnish any money, arms, ammunition, or other means in aid of such object, or shall, in any way, knowingly and wilfully aid, abet, or counsel any such combination, organization, or conspiracy, or any such hostile invasion, such person or persons shall be deemed guilty of a high misdemeanor, and shall, on conviction, be punished by fine or imprisonment at hard labor, or both; the fine not to exceed \$1,000, and the imprisonment not to exceed the term of ten years.”*

There are other provisions of this law that strike me as very proper; and it seems to me that if this amendment to the Constitution were passed, we could not do much better than to copy this law of New Jersey.

The fifth article proposed by my colleague provides that, in the event of a fugitive slave being rescued from the proper officer, the United States



shall pay to the owner the value of the slave; and then, that the United States shall have indemnity against the county or town in which the rescue took place; and that the county or city, for its indemnity, may sue and recover the amount paid from the wrong-doer. There is no new principle involved in this. By an ancient statute of England, passed in the time of Edward I, the hundred was responsible for all robberies committed therein, unless they arrested the felon. Corporate cities in this country have often been held responsible by law for property destroyed by mobs, upon the principle that it is the duty of a Government to give protection to property. My venerable friend from Rhode Island [Mr. SIMMONS] objected to this clause, because, he said, it could not be practically executed in Rhode Island, for the reason that they had no county officers there against whom the law could be enforced, so as to reach the county. If that be the fact, the honorable Senator should not object. If the people of Rhode Island should violate this provision, and there be no mode of executing the law against the counties and corporations of that State, the people of his State would be exempt from the penalty.

Mr. SIMMONS. We do not want any exemption. I merely made the suggestion because we want to obey the laws, like all other States.

Mr. POWELL. I felt very confident that the venerable Senator did not want an exemption for his gallant little State of Rhode Island, for I do not believe the Senator would countenance for a moment, by word or act, any violation of the constitutional rights of the people of any part or portion of this great country.

The sixth article proposed by my colleague declares that no future amendment to the preceding articles shall be made, nor to the third paragraph of the second section of the first article of the Constitution, nor the third paragraph to the second section of the fourth article of the Constitution; and that no amendment shall be made to the Constitution which will authorize or give to Congress any power to abolish or interfere with slavery in any of the States by whose laws it may be allowed or permitted. One of the paragraphs of the present Constitution, which it is declared shall not be repealed or altered, is the one relating to representation and direct taxes; and the other to the delivering up of fugitives from service or labor. The latter clause of this article, I suppose, will meet the concurrence of gentlemen on the other side of the Chamber. The distinguished

Senator from New York [Mr. SEWARD] not only proposed and voted for a similar proposition in the committee of thirteen, but he has since declared in the Senate that he was willing to vote for such an amendment to the Constitution; and I take it that the distinguished Senator's declaration is a clear index to what the gentlemen on that side of the Chamber will do. All the Republicans of the committee of thirteen voted in that committee for the proposition of the Senator from New York, to which I have just alluded.

There is a seventh article that I will notice very briefly. It is, that the elective franchise and the right to hold office, whether Federal, State, territorial, or municipal, shall not be exercised by persons who are in whole or in part of the African race. I have heard it announced more than once from distinguished gentlemen on the other side, that they are opposed to negro equality. If they are, why object to voting for this provision as a clause of the Constitution? This Government, is a Government of white men, made by white men for white men; and negroes should not be permitted to vote or hold office under it. If you are opposed, Senators, to negro equality, why not come up and vote for this article as an amendment to the Constitution? There certainly can be no impropriety in it, if you are opposed to negro equality; and I suppose you are, as you have so often declared it.

We have been asked by many gentlemen, and especially by the Senator from Ohio, [Mr. WADE,] what we want. He said he could see no cause of complaint; and he asked what they had done to alarm us. It is not my purpose to enter into any crimination and recrimination about the past; but I will briefly state some things that have been done. There have been bands organized in the free States for the purpose of robbing our people of their property.

Mr. WADE. I wish the Senator would give us some proof of that. I should like to hear the proof of it. I have heard the general charge often enough.

Mr. POWELL. Well, sir, I will give you a little proof from an Ohio man. It is a fact which I did not suppose the honorable Senator doubted, that such bands have been organized.

Mr. WADE. I do not believe a word of it.

Mr. POWELL. Why, sir, it is a matter of daily announcement in the papers in the northern part of the gentleman's State, that so many slaves arrived the night before by the way of the under-

ground railway. I am astonished that the Senator should be ignorant of the facts that are announced almost daily in the political journals that advocate the doctrines of himself and his party. That such bands are organized we who live upon the border well know. I hold in my hand a letter, dated Washington, December 31, 1860, written by an honorable member of the other House, from Ohio, [Mr. Cox,] to a Mr. Converse, in which he says:

"Kentucky is so unfortunate as to have in her midst \$170,000,000 in slave property. Her Governor says she is losing at the rate of \$200,000 per annum. I think if he could keep a conductor of the under-ground railroad for a year even, through my district, he would perhaps double the estimate. I was told last fall, by a respectable Republican above Columbus, that they averaged through his neighborhood at least six runaway slaves per week, helped along by combinations of men, making a loss alone of some \$30,000 per annum to somebody."

"Organized bodies exist in the North to resist the enforcement of the fugitive slave law; and I am informed, by one who knows, that at Liberia there are seventy muskets in store for such purposes, with United States brands on them."

There is a distinct declaration of one of the gentleman's honorable colleagues in the House of Representatives, making the statement on the authority of a Republican whom he vouches to be highly respectable. I believe there are annually taken from Kentucky by this means some \$400,000 worth of our property. If the northern States were foreign States, this would be good cause of war, for there is no principle of international law better established than that every State is responsible for the acts of its people. If there were organized bands of men in the slave States going into the free States to abduct one, two, three, or four hundred thousand dollars' worth of their property a year, I would ask the honorable Senator if he would not think legislation was required upon the part of the Government to protect the property of the people of the free States? Would he not think, if these States were foreign, and not connected together by a common bond of union, that such an infraction of their rights would be good cause of war? It certainly would.

But, Senators, that is not all the complaint we have. We know that the State Legislatures in many of the free States have passed laws aiding and abetting those persons who commit depredations upon our property. They have passed laws in the shape of personal liberty bills by which they declare that our property, after it gets into their States, is no longer property. They have denounced harsh penalties of fine and imprisonment upon our people who go there for the purpose of recapturing their property. They have obstructed the execution of the fugitive slave law,

and have passed laws imposing harsh penalties of fine and imprisonment upon their magistrates and citizens who assist in the execution of the fugitive slave law—a law made in pursuance of the Federal Constitution.

Mr. WADE. Will the Senator tell me what State it is which has passed such laws as those he now speaks of?

Mr. POWELL. Yes, sir. The State of Vermont, and some seven or eight other States of the North, have passed such laws.

Mr. WADE. That is indefinite. I want to know particularly.

Mr. POWELL. Seven or eight northern States have passed such laws as I have indicated. The law of Vermont, passed in 1853, provides that—

"Every person who may have been held as a slave, who shall come, or be brought, or be, in this State with the consent of his or her alleged master or mistress, or who shall come or be brought, or be in this State, shall be free."

The Federal Constitution says that such persons shall not be free, but shall be given up on demand of the owner; the law of Vermont declares they shall be free.

This law of Vermont further provides:

"SEC. 7. Every person who shall hold, or attempt to hold, in this State, in slavery, or as a slave, any free person, in any form or for any time, however short, under the pretense that such person is or has been a slave, shall, on conviction thereof, be imprisoned in the State prison for a term not less than five years nor more than twenty years, and be fined not less than \$1,000 nor more than \$10,000."

If a man pass through Vermont with his slave, or should he go into that State and arrest his fugitive slave, he is subject, under this law, to confinement in the penitentiary not less than five nor more than twenty years, and to a fine of not less than \$1,000 nor more than \$10,000.

These laws have been read and commented on here at great length. I am astonished that the Senator should question their existence. It is a fact well known to the Senator that when evil-disposed persons from his own State have gone into Kentucky and committed these crimes, his Governor has refused to give them up. In that, the Constitution has been clearly violated. In some of the northern States they declare that when a fugitive gets there he is free, no longer a slave. I was pleased to find that the honorable Senator from New York the other day declared that those persons, by fleeing into another State, did not cease to be bondmen, and that they ought to be delivered up. We know, however, that the fugitive slave law is not faithfully executed; we know that many of those States have passed laws to hinder, nay, to prevent its execution.

Mr. WADE. Mr. President, I wish now specifically to answer any charge—

The PRESIDING OFFICER, (Mr. POLK in the chair.) Does the Senator from Kentucky give way to the Senator from Ohio?

Mr. POWELL. With great pleasure.

Mr. WADE. I want to answer any charge which is made specifically against Ohio; and I want it specifically made, so that I can answer; because these general charges I have heard so long and so often that I am entirely sick of them. I want something that I can put my finger upon. If my State is delinquent in any of her duties, I want to know it; and I do not want it to rest in generalities, nor in hearsay. I do not want it to rest upon a statement that some Republican, whose name has not been given, said so to somebody else, making it come through two or three different sources before it comes to the Senator, and then proclaimed as a fact. I do not regard it as a fact at all. I know that such kind of evidence and such kind of rumors are totally unworthy to predicate any charge against a State or an individual upon. Now, sir, when it is charged that we in the State of Ohio are delinquent in our duty, and are violating the Constitution of the United States, I want the Senator to point out wherein we do it, and to give us the evidence on which the charge is predicated.

Mr. POWELL. I have given the Senator the evidence. It is a written statement of one of his own colleagues, made a few days ago. I gave to the Senator, not long since, a specific charge against the Governor of Ohio, that he had refused to deliver up a man indicted for slave-stealing in Kentucky, on the ground that it was not an offense in Ohio, or under the common law, to steal a slave. If that is not specific, I despair of making anything specific. An organized armed body of anti-slavery fanatics from the North, evidently aided and abetted by abolition societies, invaded the soil of Virginia, and in the dead hour of night assaulted and murdered the peaceful citizens of an interior village. Abolitionists from the free States have invaded and laid waste the border of Texas; burned the houses of the people; stolen and destroyed their property; poisoned their wells; and destroyed by fire villages and towns.

These are not the only grounds of apprehension that we have; for we find that the Republican party have elected a President upon a platform that virtually outlaws our property, and places our institutions under the ban of the em-

pire. I will read one of the clauses in that platform:

"That the normal condition of the territory of the United States is that of freedom; that as our republican fathers, when they had abolished slavery in our national territory, ordained that no person should be deprived of life, liberty, or property, without due process of law, it becomes our duty, by congressional legislation, whenever such legislation becomes necessary, to maintain this provision of the Constitution against all attempts to violate it; and we deny the authority of Congress, of a Territorial Legislature, of any individual or association of individuals, to give legal existence to slavery in any Territory of the United States."

That is an explicit declaration that we shall not enjoy any portion of the common territory with our property. There you declare the treaty made with France in 1803, by which Louisiana was acquired, the treaty made with Spain in 1819, by which Florida was acquired, by which treaties property was protected in those Territories, and the congressional and territorial laws by which slavery was allowed and protected in those and other Territories, were null, void, and no law. You place the Chicago platform above treaties and the laws of the United States, and the laws of the Territories, and the decisions of the Supreme Court of the United States. You have elected a gentleman President of the United States by a purely sectional vote, who has declared that this Union cannot exist half slave and half free; and who has declared that, notwithstanding the decision of the Supreme Court, he would vote to prohibit slavery in a new Territory. Mr. Lincoln, in a speech made at Chicago, on the 10th of July, 1858, said:

"If I were in Congress, and a vote should come up whether slavery should be prohibited in a new Territory, in spite of the Dred Scott decision, I would vote that it should."

The Supreme Court of the United States has declared that under the Constitution of the United States we have a common right of property in the Territories, and have a right to go there with our slaves; and that it is the duty of the Government to guard and protect us in our rights. Mr. Lincoln says that, notwithstanding that decision, he would, if in Congress, vote against allowing us to go to the Territories with our slaves. It is the avowed policy of the Republican party to restrict slavery to its present limits. Their object is to use the Federal Government to carry out a line of policy the ultimate object of which is the extinction of slavery in the States south as well as north. This policy was unequivocally announced by Mr. Lincoln, in a speech delivered at Jonesboro, on the 15th of September, 1858. Mr. Lincoln, speaking of slavery, said:

"All I have asked or desired anywhere is, that it should be placed back again upon the basis that the fathers of the



Government originally placed it upon. I have no doubt that it would become extinct, for all time to come, if we but readopted the policy of the fathers by restricting it to the limits it has already covered—restricting it from the new Territories.”

The policy is to prohibit slavery in all the Territories, and to surround the slave States with “abolition States, and thus confine the institution within such narrow limits that, when the number increases beyond the capacity of the soil to raise food for their subsistence, the institution must end in starvation, colonization, or servile insurrection.”

Senators, are not these sufficient causes why the southern people should be seized with alarm for their domestic peace and security? The people of the southern States have \$2,000,000,000 of slave property. The institution is indissolubly interwoven with their social system. The people of the South would be stupid indeed if they did not see in all this a fixed design and purpose ultimately to overthrow and destroy their domestic institutions upon which their very existence depends. Should it, then, be a matter of surprise or astonishment that they should promptly meet the danger by which they are threatened, by demanding explicit constitutional guarantees as a security for the future?

Mr. President, it is a fact, now very clear, that if this Government and Union be saved by anything that is done here, it must be done by Senators on the other side of the Chamber. They have had it in their power from the beginning of the session, by adopting amendments to the Constitution, to save this Union from dissolution. By an examination of the votes given in the committee of thirteen, it will be found that all the other members of the committee, save the Republicans, could at any time have made a unanimous report, recommending constitutional amendments for the consideration of the Senate. Indeed, the entire committee, except the Republicans, voted for all the propositions of my colleague, with the exception of two Senators, who voted against the first article; but it was well known in the committee that the first article would have been accepted by those two gentlemen, had the Republican members of the committee chosen to take it. It was declared by the distinguished Senator from Georgia, now absent, [Mr. Toombs,] on this floor, that he would have taken it; and he believed it would be satisfactory to nine tenths of the people of Georgia. So then, if we do anything to save this Government, it must come from that side of the Chamber. It has been declared by

Senators representing every party and section on this side, that they are ready and willing to go for amendments that will be satisfactory to the southern people. And you alone, Senators on the other side of the Chamber, oppose them.

If this Union should be destroyed, in consequence of constitutional guarantees not being given that would be just and satisfactory to the people of the South, you alone will be responsible to the country and to the world; for it is manifest that there has been no contrariety of opinion on this side of the Chamber, that could not have been at any time reconciled.

I have said, Senators, as much as I designed to say upon the propositions of my colleague. There is one other subject about which I will say a few words, and that is this question of coercion, about which so much has been said. I shall not attempt to discuss the right of a State to secede. That proposition has been elaborately discussed, *pro* and *con.*, in this Chamber. I see no necessity now for discussing that abstract question. We are surrounded by facts that are eminently practical. Hold what you will in theory, we know that five of the States of this Union have formally passed ordinances withdrawing from it, and that they are prepared to maintain by arms, if the issue should be forced upon them, the position they have assumed; and we know that other States, at least two, will quickly follow them. We must deal with the fact as it is. I do not believe that, under the Constitution of the United States, we have any right to make war upon a State. We find, by reference to the proceedings of the convention that framed the Constitution, that it was proposed to give that power, and it was denied. In the debates on the Federal Constitution, (Madison Papers, volume five, page 139:)

“The last clause of the sixth resolution, ‘authorizing an exertion of the force of the whole against a delinquent State,’ came next in consideration.

“Mr. Madison observed, that the more he reflected on the use of force, the more he doubted the practicability, the justice, and the efficacy of it, when applied to people collectively, and not individually. A union of the States containing such an ingredient seemed to provide for its own destruction. The use of force against a State would look more like a declaration of war than an infliction of punishment, and would probably be considered by the party attacked as a dissolution of all previous compacts by which it might be bound. He hoped that such a system would be framed as might render this resource unnecessary, and moved that the clause be postponed. This motion was agreed to, *nem. con.*”

Mr. Ellsworth, upon the same subject, said:

“I am for coercion by law—that coercion which acts only upon delinquent individuals. This Constitution does not attempt to coerce sovereign bodies—States—in their political capacity. No coercion is applicable to such bodies but that of an armed force. If we should attempt to execute the laws of the Union by sending an armed force



against a delinquent State, it would involve the good and bad, the innocent and guilty, in the same calamity."—*Elliot's Debates*, vol. 2, p. 197.

Alexander Hamilton said:

"It has been observed, to coerce the States is one of the maddest projects that was ever devised. A failure of compliance will never be confined to a single State. This being the case, can we suppose it wise to hazard a civil war? Suppose Massachusetts, or any large State, should refuse, and Congress should attempt to compel them: would they not have influence to procure assistance, especially from those States which are in the same situation as themselves? What picture does this idea present to our view? A complying State at war with a non-complying State; Congress marching the troops of one State into the bosom of another; this State collecting auxiliaries, and forming, perhaps, a majority against its Federal head. Here is a nation at war with itself. Can any reasonable man be well disposed toward a Government which makes war and carnage the only means of supporting itself—a Government that can exist only by the sword? Every such war must involve the innocent with the guilty. This single consideration should be sufficient to dispose every peaceable citizen against such a Government."—*Elliot's Debates*, vol. 2, p. 233.

Mr. Mason, and other distinguished gentlemen in that convention, uttered similar views. General Jackson has been quoted as authority by those who advocate coercion. In his farewell address he said:

"The Constitution cannot be maintained, nor the Union preserved, in opposition to public feeling, by the mere exertion of the coercive power confided in the central Government. The foundations must be laid in the affections of the people, in the security it gives to life, liberty, character, and property, in every quarter of the country."

This Government, if preserved, must be maintained upon the principle clearly and distinctly enunciated by General Jackson in the clause of his farewell address which I have just read. It is a Union that depends upon the consent of the people governed. It can only be held together by a faithful observance by all the States of the requirements of the Constitution, mutual interest and forbearance, and the ties of fraternity.

You speak, Senators, of executing the laws. I am as much in favor of executing the laws as any Senator in this Chamber. The laws ought to be honestly and faithfully executed. Laws can be executed against individuals, but not against sovereign States. How is it possible that you can execute the laws when you have no civil officer in the seceding States? You can only constitutionally and lawfully apply force in aid of the civil authority. You have no judges, you have no marshals, you have no civil officers in those States. Is there a citizen of one of the seceding States who acknowledges the jurisdiction of the United States? I doubt if there be one.

How, then, can you execute the laws there? If you resort to force, without that force being called in aid of the civil authority, it would be war; war, of itself, is equivalent to dissolution. Suppose twenty-eight States were to undertake,

by force, to compel the five seceding States to remain in the Union and to acknowledge and submit to the jurisdiction of the United States: what would be the result? When you had accomplished everything you could expect from the Army and Navy—bombarded and destroyed their cities, laid waste their fields, slaughtered their people, overrun and conquered them—would you, by that means, have preserved the Union? No; you would have placed it beyond the probability of reconstruction. So far from a constitutional Union of thirty-three free sovereign States, you would have twenty-eight States and five conquered provinces. It is madness, worse than madness, to think of preserving this Union by force. It cannot be done.

The real friends of the Union do not desire coercion. Allow me to tell you that the coercion of a sovereign State is war. War, if attempted, will result in permanent dissolution; it cannot and will not result otherwise. War commenced and prosecuted against one State would very soon involve every State in the Union in civil war. States united by similarity of institutions would soon unite to repel aggression.

I believe that South Carolina has acted hastily, imprudently, and unwisely. It would have been much better for her to have had a conference with her sister States of the South, and let them have made a united demand upon the North for constitutional guarantees; and in the event they were refused, let all the southern States have linked their shields together, and made common cause. That, in my judgment, would have been much the better and wiser policy. She chose, however, to act otherwise.

I ask Senators on the other side of the Chamber, who so ardently demand the execution of the laws, if many of their States are in a condition to arraign a sister State for the non-execution of the laws, when the fact is, that you have laws on your statute-books nullifying constitutional laws of Congress made to protect the property of the people of the southern States? You who live upon broken faith should be the last to speak of employing force against the seceding States of the South.

I have heard the great strength of the northern section of this Confederacy boasted of; we have heard of eighteen million conquering nine million. I admit that the northern portion of this Confederacy has had a wonderful growth; it has had great prosperity, and in that prosperity, I, in common, I trust, with every man in the Re-

public, rejoice. The South, too, has had an astonishing growth and very great prosperity. The strength, the prosperity, and the power of the two sections furnish, to my mind, a conclusive reason why we should have no war. Our strength, our wealth, our prosperity, were not caused by war; it was the arts of peace that crowned the two sections of this great country with such surprising prosperity. Both sections have made unparalleled advancement in wealth, population, and in all the arts of peace that constitute a nation's greatness. In 1790 the population of the two sections was about equal. Our people then numbered a little less than four million. The population of each section was about one million nine hundred thousand. By the census just now being completed, I suppose the South will have twelve and the North nineteen million people. Senators, it is impossible that either section could overrun or conquer the other. If you resort to coercion and war, what will be the result? You would have a long, exhausting civil war, and after it you would settle all your difficulties by negotiation. If we have to separate, in God's name let us part in peace. I trust, however, that all our difficulties may be properly and honorably adjusted, and that this Union may last for hundreds of years to come.

The State I have the honor in part to represent, has ever been true and loyal to the Constitution and the Union. Her people, of all political parties, most heartily desire that the constitutional Union of our fathers may be preserved. She justly appreciates the value of the Union and the blessings it has conferred. She has, in the councils of the common country, and on the battle-field, exhibited her devotion to the whole country. She claims that the Constitution shall be executed in the spirit in which our fathers gave it to us. She demands her equality of rights under the Constitution; her equality of rights in the common territories; and that Federal laws made for the protection of the property of her citizens shall be faithfully executed. She asks nothing that is not right; she will submit to nothing that is wrong. She desires a fair, honorable, and just settlement of the vexed questions that so fearfully agitate the country, by full and explicit constitutional

guarantees—guarantees that will settle permanently and forever the questions in dispute, and thus secure and transmit the blessings of constitutional liberty, and the Government given us by our illustrious ancestors, to generations yet unborn.

Senators, the propositions presented by my colleague, with the amendments I have proposed, which meet his approval, should, in my judgment, be satisfactory to the people of both sections of this Union. I believe they are equitable and just to every section of the country; and had they been promptly conceded by the North, I have no doubt that they would have arrested the current of events, and saved the Union from dissolution, and restored peace, harmony, and prosperity to the country. I hope they may be adopted, and reunite a divided people. By their adoption the North loses nothing, the South gains security, and that protection which it is the duty of a common Government to extend to person and property. My colleague spoke most truly when he said to Republican Senators that their yielding to the South these constitutional guarantees would be the cheapest price ever paid for so great a blessing as this constitutional Union. I feel confident that Kentucky would be satisfied with these constitutional guarantees. I do not believe she will or ought to be satisfied with less.

I have been often asked what Kentucky will do in the event of a refusal on the part of the North to yield the guarantees she asks. Allow me to say that I am not authorized to speak for Kentucky. She has convened her Legislature in extraordinary session, to consider the condition of the country. In a very short time her chosen representatives will make known her position. I have every confidence that she will meet this crisis, and that she will act in the midst of the great events by which she is surrounded, in a manner becoming the honor and the dignity of a brave people, and the people of a free sovereign State, who know their rights, and, knowing, dare maintain them. When the position of Kentucky shall be thus taken; when her sovereign will shall be legitimately made known, whether it be according to my personal judgment or not, I, as a true and a loyal son, will obey her high behests.



